IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.6592 OF 2003

WITH

CIVIL APPLICATION NO.985 OF 2004

Kumar Resort & Amusement Pvt.Ltd. ..Petitioner.

Vs.

Maharashtra State Electricity

Board & Ors. ..Respondents.

....

Mr.S.P.Kanuga for the Petitioner.

Mrs.A.R.S.Baxi for MSEB.

....

CORAM : F.I.REBELLO, J. AND

DR.D.Y.CHANDRACHUD, J.

21st February, 2006.

P.C. :

Rule. Heard forthwith.

The grievance of the Petitioner is that the dispute was heard by the same authority who was the authority who had given the first hearing, against

whose order the appeal was preferred and in these circumstances, the appeal was from caesar to caesar. The impugned order is liable to be set aside. The averments made by the Petitioner in paragraph 11 are not disputed. Considering the above, the impugned order as communicated by communication dated 5th April, 2003 is set aside and the matter is remanded back for consideration to the Appellate Authority.

The Petitioner during the pendency of the Petition has already deposited a sum of Rs.4 lacs with the Respondents. The Petitioner to deposit further sum of Rs.3 lacs within three weeks from today. On such deposit the Appeal to be disposed of no later than eight weeks thereafter, after giving the Petitioner an opportunity of being heard.

Rule made absolute accordingly. There shall be no order as to costs.

In view of the disposal of the Petition, the Civil Application does not survive and is accordingly disposed of.

(F.I.REBELLO, J.)

(DR.D.Y.CHANDRACHUD, J.)